



## City Council Meeting

Regular Session Minutes  
June 27, 2016

### I. CALL TO ORDER

A regular meeting of the City Council of the City of Liberty, Missouri was held in the Council Chambers at City Hall on June 27, 2016 with Mayor Lyndell Brenton presiding. Mayor Brenton called the meeting to order at 7:00 p.m.

### II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Greg Duncan, who then led the pledge of allegiance.

### III. ROLL CALL

Council Members Present: Harold Phillips and Paul Jenness, Ward I  
Greg Duncan and Rae Moore, Ward II  
Kevin Graham, Ward III  
Michael Hagan and Gene Gentrup, Ward IV

Council Members Absent: Jeff Watt, Ward III

Staff Present: Curt Wenson, City Administrator  
Dan Estes, Assistant City Administrator/Finance Director  
Shawwna Funderburk, Asst. to the City Administrator  
Steve Hansen, Public Works Director  
Andy Noll, Assistant Public Works Director  
Brian Hess, Utilities Director  
Duane Davidson, Police Lieutenant  
Mike Peterman, Planner  
Katherine Sharp, Assistant Planning Director  
Janet Pittman, Deputy City Clerk

Public Present: Kellie Houx, Liberty Tribune  
25 members of the public

### IV. APPROVE MINUTES AND SUMMARIES

#### A. Special Session Minutes of June 6, 2016

Council Member Hagen moved to approve the minutes as distributed. Council Member Gentrup seconded the motion, which carried 6-0-1. Council Member Phillips abstained due to absence.

#### B. Executive Session Minutes of June 6, 2016

Council Member Jenness moved to approve the minutes as distributed. Council Member Gentrup seconded the motion, which carried 6-0-1. Council Member Phillips abstained due to absence.

C. Regular Session Minutes of May 23, 2016

Council Member Gentrup moved to approve the minutes as distributed. Council Member Phillips seconded the motion, which carried 6-0-1. Council Member Duncan abstained due to absence.

V. CITIZENS' PARTICIPATION

Jessica McKinney, 2144 Jetty Street, requested that the Council consider repealing the breed specific (pit bull ban). She stated she was aware that the ban had been put in place in the 1980's as a result of a citizen's petition; however, she stated that since that time pit bulls have been given a bad rap. Individual dogs need to be addressed not entire breeds. Ms. McKinney referred to House Bill 1811 that was stopped by Senator Munzlinger, who stated that current legislation already exists that prohibits cities from banning specific breeds (67.140). She stated that she owns a boxer/lab mix that is accused of being a pit bull based on Liberty's ordinance definition.

Jeremy Collum, 409 N. Jefferson, requested that Council repeal the breed specific language and stated that he owns a pit bull that lives in Kansas City and he would like to bring her home. The ordinance should speak to the actions of the owners or the dogs versus blanket language. He noted that sometimes people find out once they bring their pet home that there is a ban.

Bill Covey, 75 Beauregard Circle, stated that the American Kennel Club, the American Temperament and Bar Associations note there are three breeds that are less reliable (Chow Chow, Jack Russell Terrier and the Chinese Crested Chihuahua) than a pit bull, and there are other dogs that are more likely to bite somebody. People will get pit bulls regardless of the law and then they will be hidden away and not socialized properly. He would like the ordinance to focus more towards the owner and not the breed of the dog.

Debin Norris, 9844 N. Cherry, KCMO, stated that she operates a shelter that seems to be a catchall for Platte County and Liberty residents who have moved to these locations and didn't research the animal ordinance first. Many folks are unaware there are breed bans. A number of individuals don't reclaim their dogs from the shelter since they have to be sterilized. They had intended to breed the dog to make money and don't see the value in them anymore once they are sterilized. Others do then adopt them and provide a good home. Ms. Norris asked Council to be progressive and to focus on responsible pet ownership.

MacKenzie Elliott, 2202 Current Street, stated that given the City's pit bull definition many dogs can be associated/resemble the breed (ie. boxer). Families can lose their family pet, and the focus should be put on irresponsible owners of any dog breed. Liberty is seen as a less desirable place to live because it is prejudiced against a breed, and she asked Council to consider repealing breed specific language.

VI. MEETING SCHEDULE

VII. CONSENT AGENDA

A. Study Session Summary of May 16, 2016

Council Member Phillips moved to approve the summary as distributed. Council Member Gentrup seconded the motion, which carried unanimously.

B. Special Session Minutes of May 16, 2016

Council Member Phillips moved to approve the minutes as distributed. Council Member Gentrup seconded the motion, which carried unanimously.

C. Regular Session Minutes of May 9, 2016

Council Member Phillips moved to approve the minutes as distributed. Council Member Gentrup seconded the motion, which carried unanimously.

D. Regular Session Minutes of June 13, 2016

Council Member Phillips moved to approve the minutes as distributed. Council Member Gentrup seconded the motion, which carried unanimously.

E. Boards and Commissions Appointments

1. Citizen Sales Tax Oversight Committee

- i. Appoint William Bland to a term expiring May 15, 2018
- ii. Appoint Steve Boos to a term expiring May 15, 2017

Council Member Phillips moved to approve the appointments. Council Member Gentrup seconded the motion, which carried unanimously

VIII. PUBLIC HEARINGS

A. Resolution approving a Final Development Plan for 64,877 SF, 114 Room, 4 Story Marriott Town Place Suites Extended Stay Hotel at Liberty Commons, Lot 1, in Liberty, Clay County, Missouri [P&Z Case 16-26FDP]

A parking variance has been requested for this project at a proposed ratio of one stall for every guest room. The applicant states that this parking ratio is industry standard for a hotel. Additionally, the Liberty Commons Center, as a whole, meets the minimum parking requirements and shared parking is described in the covenants for the Center.

Mayor Brenton opened the Public Hearing and asked if anyone wished to speak either in favor or in opposition of the Resolution.

Chase Zadnik, 8333 Greenway Blvd., Middleton, WI, stated they are excited to start the project and that the brand decision is important to get right. The proposed Towne Place Suites hotel provides a kitchenette (smaller than those of a Residence Inn); hotel is more compact (Residence Inns have a bar – Towne Places do not); and, there is approximately 15% difference in total building size (Residence Inns have larger common areas). The Towne Place proposed for Liberty Commons is 7,000 sq.ft. larger than traditional Towne Place Suites and will include a bar, increased fitness area, and increased lobby/welcome area. This layout better serves the rooms and parking layout with four stories and 114 rooms. Liberty's hotel demand has

diminished over the last six months, and the Towne Place Suites rate (\$10 less than the Residence Inn) is a better price point for the area. In response to Council's question, he stated that there is a demand for extended stay hotels in Liberty (4 nights or more). With the amenities, guests will have a more 'home' like experience. Both the Towne Place Suites and Residence Inns are highly regarded brands (40% of guests stay for an extended period and the rest are still traditional type hotel stays).

Seeing no one else wishing to speak, the Mayor closed the Public Hearing.

**Action:** Council Member Hagan moved to approve the resolution with the parking variance. Council Member Jenness seconded the motion.

**Vote:** Motion passed 6-0-1.

**Yes:** Council Members Phillips, Jenness, Hagan, Graham, Duncan and Gentrup

**No:** None

**Abstain:** Council Member Moore, due to potential conflict of interest  
Inscribed in Resolution No. 2848.

B. Resolution approving a Special Use Permit to allow a Pick-Your-Own Fruit Orchard at 632 N. Lightburne in the City of Liberty, Clay County, Missouri [P&Z Case 16-22SUP]

The Special Use Permit (SUP) requested is to allow the picking and sales of fruits and other agricultural items at the approx. 10 acre property located behind the home at 632 N. Lightburne. Due to topographical constraints of the land, the entrance to the orchard is proposed at the end of Crawford Street (current terminus of Crawford Lane, off of Nashua Road). Crawford will be finished to street standard and a commercial concrete drive approach will be required at the entrance.

The area of commercial use is limited to in and around the barn building, and events such as concerts or weddings are not allowed under this permit. The building will also be used to store equipment used to maintain and operate the orchard and will contain public restrooms. Amplified or loud music will not be allowed at the site and lighting will be minimized as required by residential code.

The applicant is requesting to be able to provide hay or tractor rides and a small area where guests could feed or pet farm animals. Nothing in the approval of this application implies permission for any animals outside of what type or number of animals would be allowed outright on the land.

The orchard is proposed to be open to the general public on Saturdays and Sundays and by appointment (for field trips, photography, or other groups no larger than 50 people) on Thursdays. The hours of operation are 10 a.m.- 5 p.m. The applicant is requesting the orchard be open from the first weekend in June thru the second weekend in November, and then open for Christmas tree sales starting the weekend of Thanksgiving thru December 15.

The parking area will be offset from adjacent properties by keeping a 50 foot buffer of existing trees intact in order to limit disruption to surrounding properties. Also indicated on the site plan is an area designated for non-public use, located along the northeast boundary of the property. The non-public use area will be used to grow and produce items used for sale but will not be accessible by patrons in order to limit disruption to

neighbors. A hedge row will also be placed along the fence line of the neighbor located to the north east of the property.

Mayor Brenton opened the Public Hearing and asked if anyone wished to speak either in favor or in opposition of the Resolution.

Brendon Taylor, 632 N. Lightburne, is the applicant and stated that this is a good opportunity for Liberty where children and adults can take agricultural field trips to see where their food comes from. He stated that they are not looking to host weddings etc., just a location for family fun. The fence around the perimeter of the property is a barrier for the surrounding neighbors as well as keeping deer etc. off of the property. There will be 35 parking spaces and approximately 90,000 sq. ft. will be an area where animals are kept. Approximately 150 orchard trees will be grown for five years before they will be harvested (utilizing a staggered growth pattern). Bins will be located throughout the orchard for waste/dropped fruit collection. The applicant will also plant hedge rows to screen the neighbors' properties. The proposed barn will be used to store equipment as well as a retail space. The applicant has reduced the number of parking spaces, hours of operation, temporary use applications and signage to address the neighbor's concerns. The tractor/hay rides would be around the perimeter of the orchard, utilizing a small wagon (less than 10 people), mainly for transportation for disabled individuals.

Tiffany Brown, 644 N. Lightburne, stated that she lives north of the proposed project. She appreciates the compromises the applicant has offered; however, the request is vague given that the Special Use Permit stays with the property and not the owner (ie. will it be a u-pick orchard, pumpkin patch, etc.). The next owner may not have the same vision as the applicant. Ms. Brown also noted that the retail items contain a broad range of products. Agri-entertainment is farm based entertainment, and its popularity has doubled. Generally, apple orchards are in a more rural area; however, this location is residential and it will be a discomfort. She is fine with a small u-pick orchard, but that is not what is stated in the application. She would like Council to consider specifically what activities are allowed, and that the applicant only sells products that are grown/produced on the property, and a limited operating season. To mitigate noise she is requesting no music outside, elimination of the tractor rides and to reduce parking to 25 spots. She is also requesting a privacy fence be installed between her property and the applicant's, in addition to the hedge row.

Lawrence Murdock, 214 E. Doniphan, stated that he lives south of the water tower and the proposed location. He is in favor of the application and thinks it would be good for all ages. He noted that usually the costs of privacy fences are shared equally with both property owners. He plans to continue living here and states that if the applicant pays his taxes he should be able to do what he wants with his property.

Laura McKenzie, 917 Cosby, stated that the opening of Crawford Street is a concern. She appreciates the efforts of the applicant; however, she wants to know if the engineer looked at the feasibility of opening Crawford. Traffic in the neighborhood is a concern and she asks that the City look at safety measures. She noted that the hill is wooded and gets overgrown and she would like to see attention to that area as well as a sidewalk installed. She is concerned about the capacity limit on the facility and doesn't want to see an overflow of parking into the surrounding neighborhood. She

requested no parking signs be added and that a substantial gate be added to deter trespassers.

Anna Bedinger, 650 N. Lightburne, spoke on behalf of her family, stating they are in support of small local farms and this would be a benefit to the downtown area. She would like to see the area remain green and not have a future road installed through it. She encouraged support of the Taylors, noting that farming is hard work, and they are dedicated and taking an economic risk. This project can be an asset to our community.

Glenda Powelson, 109 Charles, stated her concerns include parking and traffic. She is against Agri-entertainment/retail in the neighborhood. She supports children learning, but it should be outside of the city limits. The neighborhood maintains the foliage area, and neighbors should be maintaining their own property.

Seeing no one else wishing to speak, the Mayor closed the Public Hearing.

**Action:** Council Member Hagan moved to postpone consideration of the Resolution to the July 25, 2016 Regular Session Meeting. Council Member Graham seconded the motion, which carried unanimously.

Mayor Brenton Stated the Resolution would be considered on July 25, 2016.

#### IX. ORDINANCES, CONTRACTS AND RESOLUTIONS

- A. Ordinance acknowledging vendor payments for the period of June 3, 2016 to June 17, 2016

Mayor Pro Tem Phillips took over as Chair of the meeting.

1. Ordinance excluding Westland Landscape payments

Document No. 8320 was read.

**Action:** Council Member Hagan moved to approve the vendor payments. Council Member Jenness seconded the motion.

Roll Call

Vote: Motion passed 7-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 10589.

Mayor Brenton resumed as chair of the meeting.

- B. Ordinance accepting and approving a Final Plat for a Replat of Part of Lot 1, Oak Plaza Addition, 5<sup>th</sup> Plat, in the City of Liberty, Clay County, Missouri [P&Z Case No. 16-24FP]

This is to plat each individual building and the common area around each of them to create the ability to sell an individual building, if so desired.

Document No. 8321 was read.

**Action:** Council Member Jenness moved to waive the rules and consider the ordinance on first reading. Council Member Phillips seconded the motion.

**Vote:** Motion passed unanimously.

**Action:** Council Member Phillips moved to approve the ordinance. Council Member Hagan seconded the motion.

**Vote:** Motion passed 7-0-0

**Yes:** Council Members Phillips, Jenness, Moore, Hagan, Graham, Duncan and Gentrup

**No:** None

**Abstain:** None

Approved by the Chair and inscribed in Ordinance No. 10590.

- C. Resolution approving a Preliminary Plat for Creekwood Subdivision, 2<sup>nd</sup> Plat, West of 291 Highway at Creekwood Drive and Fawn Lane, a Subdivision of Land in Liberty, Clay County, Missouri [P&Z Case 16-25PP]

This is an amended preliminary plat for Creekwood Subdivision – 2<sup>nd</sup> Plat. There have been two previous plats approved at this location in 2006 and 2007. There are natural barriers on this site that make it a challenge to develop. The applicant is proposing 22 lots in three phases. All of the lots are proposed to be standard R-1C lots that meet the required setbacks of that zoning district. There is to be a 50 foot buffer from the flood plain (designated as a conservation easement).

**Action:** Council Member Hagan moved to approve the resolution. Council Member Gentrup seconded the motion.

**Vote:** Motion passed 7-0-0

**Yes:** Council Members Phillips, Jenness, Moore, Hagan, Graham, Duncan and Gentrup

**No:** None

**Abstain:** None

Inscribed in Resolution No. 2849.

- D. Ordinance amending Ordinance No. 10582 approving a Contract with Superior Bowen Asphalt Company for the 2016 Street Maintenance Pavement Restoration Project, increasing the agreement by \$137,106.80 to a not to exceed amount of \$879,260.

The Street Restoration base budget was established at \$879,260 for 2016 during CIP development. An additional \$20,000 is available from the Sanitation Fund to help offset street damage due to trash collection vehicles. The total amount available for street restoration during fiscal year 2016 is \$899,260. Staff has chosen additional streets to be added to the contract to take advantage of favorable bid pricing.

Document No. 8322 was read.

**Action:** Council Member Phillips moved to waive the rules and consider the ordinance on first reading. Council Member Jenness seconded the motion.

**Vote:** Motion passed unanimously.

**Action:** Council Member Gentrup moved to approve the ordinance. Council Member Hagan seconded the motion.

**Vote:** Motion passed 7-0-0

**Yes:** Council Members Phillips, Jenness, Moore, Hagan, Graham, Duncan and Gentrup

**No:** None

**Abstain:** None

Approved by the Chair and inscribed in Ordinance No. 10591.

E. Wilshire Estates Storm Sewer Improvement Project

1. Ordinance amending Ordinance No. 10489, Amending a Contract with Havens Construction Co., Inc. for the 2014 Wilshire Estates Storm Sewer Improvement Project by \$277,972.97, increasing the contract amount from \$605,000.00 to a not to exceed amount of \$882,972.97

An 84-inch diameter storm sewer pipe partially collapsed in the Westowne parking lot at 1170 West Kansas Street. Initially it was thought approximately 300 feet of pipe would need to be replaced; however, upon detailed inspection it was determined that 670 feet of pipe would need to be replaced due to significant deterioration of the existing pipe. Additionally, it was determined that a new storm sewer pipe location was necessary to facilitate safe construction of the replacement storm sewer.

The construction was completed by amending an existing time and material contract that was in place for the Wilshire Boulevard Storm Sewer Improvements. The 2015 CIP budget included \$605,000 for capital storm water improvements and was allocated to the Wilshire Boulevard and 1170 West Kansas storm water repair. The Wilshire Boulevard Storm Sewer Improvement section was completed at a cost of approximately \$202,000, which left \$403,000 available to complete the repairs.

The current amount of authorization available for the 1170 West Kansas Street repairs is \$403,000; staff requests an additional authorization of \$277,972.97 for a total contract amount of \$882,972.97 for both projects to cover the final cost of repairs and restoration. The amended total contract authorization of \$882,972.97 will provide \$680,972.97 for the final cost of repairs at 1170 West Kansas Street and \$202,000.00 for the original Wilshire Boulevard storm sewer improvements.

Document No. 8323 was read.

**Action:** Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Phillips seconded the motion.

**Vote:** Motion passed unanimously.

**Action:** Council Member Gentrup moved to approve the ordinance. Council Member Phillips seconded the motion.

**Vote:** Motion passed 6-0-1

**Yes:** Council Members Phillips, Moore, Hagan, Graham, Duncan and Gentrup

**No:** None

**Abstain:** Council Member Jenness, due to potential conflict of interest

Approved by the Chair and inscribed in Ordinance No. 10592.

2. Resolution accepting the 2014 Wilshire Estates Storm Sewer Improvements Project

**Action:** Council Member Jenness moved to approve the resolution. Council Member Duncan seconded the motion.

**Vote:** Motion passed 6-0-1

**Yes:** Council Members Phillips, Moore, Hagan, Graham, Duncan and Gentrup

**No:** None

**Abstain:** Council Member Jenness, due to potential conflict of interest

Inscribed in Resolution No. 2850.

F. Resolution of Appreciation and Commendation to Steven P. Hansen, PE for his Dedicated Service to the City of Liberty, Missouri

**Action:** Council Member Jenness moved to approve the resolution. Council Member Duncan seconded the motion.

**Vote:** Motion passed 7-0-0

**Yes:** Council Members Phillips, Jenness, Moore, Hagan, Graham, Duncan and Gentrup

**No:** None

**Abstain:** None

Inscribed in Resolution No. 2851.

X. OTHER BUSINESS

XI. MISCELLANEOUS MATTERS FROM CITY ADMINISTRATOR

XII. MISCELLANEOUS MATTERS FROM MAYOR AND CITY COUNCIL

XIII. ADJOURNMENT

The meeting adjourned at 9:20 p.m.

Attest:

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Mayor

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Deputy City Clerk